

ATTACHMENT 7

STATE ENERGY PLAN (SEP) NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE/CERTIFICATION FORM

The National Environmental Policy Act (NEPA) requires federal agencies to consider the potential environmental impacts of their proposed actions. Awards issued under this solicitation will be funded pursuant to a grant (DE-EE0000221) from the U.S. Department of Energy (DOE) to the Energy Commission that consists of American Recovery and Reinvestment Act of 2009 (ARRA) State Energy Program (SEP) funds. DOE must comply with NEPA when awarding grants to states. Accordingly, recipients of awards issued under this solicitation may not take any action using federal funds for projects that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination regarding these projects.

NEPA requires federal agencies to prepare a brief environmental analysis called an environmental assessment (EA) or a detailed analysis called an environmental impact statement (EIS), unless the project is categorically excluded from NEPA review. For additional information about NEPA, please visit:

- DOE's NEPA website at <http://www.gc.energy.gov/NEPA/>;
- The "NEPA" section of DOE's recovery Act Clearinghouse at [https://recoveryclearinghouse.energy.gov/#NATIONAL ENVIRONMENTAL POLICY ACT NEPA](https://recoveryclearinghouse.energy.gov/#NATIONAL_ENVIRONMENTAL_POLICY_ACT_NEPA); or
- The White House Council on Environmental Quality's *Citizen's Guide to the NEPA* at http://www.nepa.gov/ntf/Citizens_Guide_Dec07.pdf.

Categorically Excluded Projects

DOE has determined that the following SEP activities are categorically excluded from NEPA review, meaning that they do not require preparation of an EA or an EIS:

- Energy saving projects for residential buildings;
- Energy saving projects for commercial buildings;
- Energy saving projects for industrial buildings;
- Energy efficiency and renewable energy retrofits for state departments, local jurisdictions, school and hospitals; and
- Public outreach and education.

Categorical exclusions are not absolute. A project that falls within one of the categories listed above may require additional NEPA review if it involves "extraordinary circumstances" that may affect the significance of its environmental effects. "Extraordinary circumstances" are defined as "unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the

proposal; uncertain effects or effects involving unique or unknown risks; or unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA [42 U.S.C. § 4332(E)].”¹

Projects Not Categorically Excluded

Projects not listed above (including but not limited to: renewable energy projects such as large wind and solar generation facilities, large combined heat and power systems, bioenergy generation and waste disposal systems, and clean energy technology projects) will require individual NEPA review and determination. Bidders selected for funding must submit an environmental questionnaire (Attachment 19) if their proposed projects do not fall within the above excluded program activities. The Energy Commission will forward the completed NEPA environmental questionnaire to DOE for its individual NEPA review and determination. If the Bidder moves forward with activities that are not authorized for federal funding by DOE in advance of the final NEPA determination, it will do so at risk of not receiving federal funding, and such costs may not be recognized as allowable cost share.

If DOE determines that NEPA requires the preparation of an environmental assessment (EA) or environmental impact statement (EIS) for a proposed program, the Bidder will be responsible for paying the cost of preparing an EA or EIS. **Preparation of these types of NEPA documents can require 6-24 months.** Accordingly, Bidders should carefully consider whether such programs are consistent with the objectives of the ARRA and will allow the expenditure of funds by the March 31, 2012 dead line.

To be Completed by Successful Bidders:

Application of NEPA to Proposed Project: Certification of Bidder’s Legal Representative

An authorized legal representative of the Bidder must certify the following, to the best of his/her knowledge:

- ☐ The proposed project is categorically excluded from NEPA because it falls within the following category:
- ☐ Energy saving project for residential buildings
 - ☐ Energy saving project for commercial buildings
 - ☐ Energy saving project for industrial buildings
 - ☐ Energy efficiency and renewable energy retrofits for state departments, local jurisdictions, school and hospitals
 - ☐ Public outreach and education

¹ 10 C.F.R. § 1021.410(b).

- ☐ The proposed project falls within the categories listed above but may involve “extraordinary circumstances” within the meaning of 10 C.F.R. Section 1021.410, for the following reason(s) (attach additional pages if necessary):

- ☐ The proposed project is not categorically excluded, for the following reason(s) (attach additional pages if necessary):

The Energy Commission may request additional information in order to clarify answers provided on this form.

This form was completed by: _____
Print or Type Name

Title: _____

Organization: _____

Phone Number: _____

Email: _____

Signature: _____

Date: _____